

REMARKS/ARGUMENTS

The present amendment is being filed under a Certificate of Mailing.

Claims 6, 14, 20-22, 24-27 and 29-31 remain pending in the present application.

Claim 6, 14, 20 and 27 have been amended. No claims have been added.

Claim Objections

Claims 20 and 27 were objected to for missing a period. A period has been added to both claims 20 and 27. Therefore, the objection is believed to be overcome.

§112 Rejection

Claims 6, 20-22 and 24-26 were rejected under §112 as being indefinite. Claim 6 has been amended to recite that the second and third components are completely separated from one another. Claim 6 has also been rejected for referring to “the implant” improperly. The preamble has been amended to refer to the implant in a non-functional way. Therefore, these rejections are believed to be overcome.

§102 Rejection

Claims 14, 27, and 29-31 were rejected as being anticipated by EP0992225 (“Wack”). Independent claim 14 recites a first component that includes a restraining portion and second and third components that each define a cooperating portion for cooperating with the restraining portion to provide restrained motion of the second and third components relative to the first component. Claim 14 has been amended to further recite that the first component includes a conical second and third components are connected to the first component along the restraining portion and that the second and third portions have an outer periphery that match the outer periphery of an implant. Wack does not disclose a first component with a conical portion such that the second and third components are connected to the conical portion. As illustrated in FIG. 1 of Wack, the enlarging portions 24 are not attached to the impaction stem 10 at a conical portion of the impaction stem. For at least this reason, claim 14 and its dependents are believed to be allowable over Wack.

§103 Rejection

Claims 6, 20-22 and 24-26 were rejected as being obvious over DE 3630069 (“Parhofer”) in view of U.S. Pat. No. 4,237,875 (“Termanini”). Independent claim 6 includes the limitations that the second and third components are completely separated from one another. Also, claim 6 has been amended to state that the first component

includes a conical portion and is connected to the second and third components at the conical portion. Neither Parhofer nor Termanini disclose second and third components that are completely separate from one another. The components in Parhofer are connected to one another via the plate 3. Additionally, neither Parhofer nor Termanini disclose the first component having a conical portion and that the second and third components are connected to the first component at the conical portion.

Because neither of the references, alone or in combination, disclose the limitation that the second and third components are separable by an opening that allow the two components to move independently of one another, claim 6 and its dependents are believed to be allowable.

Conclusion

Should the Examiner have any questions, he is invited to contact Cindy Barnett at the below phone number. The Commissioner is hereby authorized to charge any additional fees which may be required in connection with the filing of this communication, by charging Account No. 10-0750/DEP5086/CKB.

For the above-described reasons it is respectfully submitted that the rejections of claims 6, 14, 20-22, 24-27 and 29-31 have been overcome and are currently in condition for allowance. Should the Examiner believe a telephone conference would be useful, the Examiner is invited to call the undersigned at 574-372-7332. Early Notice of Allowance is respectfully requested.

Respectfully submitted,
/Cynthia K. Barnett/

Cynthia K. Barnett
Attorney for Applicants
Reg. No. 48,655

Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003
(574) 372-7332
DATED: January 19, 2009